

EXHIBIT 40

Exhibit 40 to the Declaration of Alanna Buchanan in
Further Support of Defendants' Motion to Dismiss

From: Deborah Burns. Sent: 2/21/2008 2:47 PM.
To: [-] Larry Goldstone.
Cc: [-] Clay Simmons; Jane Starrett; Nathan Fellers.
Bcc: [-] .
Subject: TMST 2008-1 update.

We have a shot at upsizing the deal to \$1 billion but we need to try to get it priced tomorrow in order to avoid losing investors. We can't price without the preliminary prosupp including the disclosure language being in the hands of the investors first. If there are any changes in disclosure language from the red to the black (next Wednesday) then the investors will have an opportunity to reconfirm their trades and could conceivably walk or want to reprice due to the changes.

So the language in the red needs to satisfy the underwriters today and next week or the trade will be at risk. The tricky part is the disclosure around margin calls and liquidity.

CSFB is willing to withdraw from the underwriting group since they realize their attorneys will probably not agree to anything short of disclosing the delay in meeting their margin call earlier this week. So we have to come to terms with RBS and Bear on disclosure language. We are trying to gin up language that moves away from discussion of the status of margin calls and focuses on us as a going concern but we haven't come up with anything yet and we have yet to put it before the underwriters and their counsel.

I am going to put something together with the help of our McKee counsel.

****Please note new phone and fax numbers****

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